IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.883 OF 2004

Smt.Jalubai N. Chavan ...Appellant

Vs.

State of Maharashtra & Ors. ...Respondents

Mr.B.P.Shukla for the Appellant
Ms Geeta Mulekar for Respondent No.1
Mr.R.M.Sawant for Respondent No.2
Mr.Vijay Mane for Respondent No.3.

CORAM: A.S.OKA,J.
DATE : FEBRUARY 9, 2005.

P.C.:

1. Heard Counsel appearing for the parties. The Appellant-Plaintiff claims to be in possession of transit accommodation. It is not in dispute that the transit accommodation which is stated to be in possession of the Appellant is earmarked for project affected persons under MUTP Project pending grant permanent alternative accommodation. It is not in dispute that the Appellant is not at all a project affected person under MUTP Project.

2. The case of the Appellant in the plaint is that the Respondent No.4-Defendant No.4 represented to the Appellant that his structure has been demolished for the purpose of the said project. The Respondent No.4 further represented that in lieu of the structure, he was likely to get a transit accommodation.

In the plaint what is stated is that on the representation made by the Respondent No.4 that the Appellant dealt with the Respondent No.4 and it is alleged that the defendant No.3-Respondent No.3 issued a letter of allotment of the transit accommodation in favour of the Appellant. It is the case of the Respondent Nos.1 to 3 that the said letter of allotment is a bogus document. It is pertinent to note that in the rejoinder filed by the Appellant an altogether different case was made out. It is stated in the rejoinder that one Halimabai B. Shaikh was the occupant of structure and was a project affected person. It is stated that Respondent No.4-Defendant No.4 represented to the Appellant that Halimabai was not interested in permanent accommodation and in place of Halimabai he will give permanent alternative accommodation to the Appellant. Therefore, a case is made out that after handing over the original documents in the name of Halimabai and a sum of Rs.30,000/- for transfer of allotment, the Officers of Respondent Nos.2 and 3, issued an allotment letter in the name of the Appellant.

3. Apart from totally inconsistent stand taken by the Appellant it is an admitted position that the Appellant herself was not at all entitled to permanent accommodation as she is not at all a projected affected person. Assuming that somebody else was given a transit accommodation, there was no question of the Appellant acquiring the same by paying some

consideration. This is a case where the Appellant has not even a semblance of right to occupy the transit accommodation.

4. Grant of temporary injunction is discretionary. Such relief cannot be granted in favour of a litigant like the Appellant. Therefore, no fault can be found with discretion exercised by the learned Judge by which Notice of Motion taken out by the Appellant is dismissed.

5. Appeal is dismissed with no order as to costs.

JUDGE.